

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

DYSON TECHNOLOGY LIMITED and )  
DYSON, INC., )  
Plaintiffs, )  
v. ) C.A. No. 05-434-GMS  
MAYTAG CORPORATION, ) **REDACTED –**  
Defendant. ) **PUBLIC VERSION**

**PLAINTIFFS' REPLY BRIEF IN SUPPORT OF MOTION IN LIMINE NO.5  
TO EXCLUDE EVIDENCE OF MAYTAG'S IN-HOME TESTS**

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Dated: April 26, 2007

**TABLE OF EXHIBITS**

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Excerpts from Transcript of February 15, 2007 Deposition of John Balough.....	A
Excerpts from Transcript of April 4, 2007 Deposition of Richard S. Figliola .....	B
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This contention is

[REDACTED]

[REDACTED]

[REDACTED] They are unreliable and should be excluded.

*Second*, although Maytag contends that “novel methodologies” may be admissible (Opp. at 4), Balough’s in-home tests were not merely “novel”; they were poorly run and lacked any indicia of objective protocols or good procedures. Maytag does not argue otherwise, and, in fact, there is nothing Maytag can say. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Maytag has presented no evidence to rebut the overwhelming indications of shoddy test execution, and the results should be excluded as unreliable.

*Third*, Maytag’s suggestion that it is excused from offering affirmative evidence of reliability because its in-home tests are “the best we’ve got” is legally frivolous.<sup>2</sup> [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The image consists of seven horizontal black bars of equal length, arranged vertically. Each bar contains a few small, scattered white specks, which appear to be dust or noise particles. The bars are set against a solid black background.

What the law requires is a preponderance of the evidence that Maytag's tests are reliable. Maytag cites no such evidence, and none exists.

For all the reasons stated herein, and for the reasons set forth in Dyson's Opening Brief, Dyson's motion to exclude any evidence relating to Maytag's in-home tests should be granted.

Respectfully submitted,

YOUNG CONAWAY STARGATT & TAYLOR, LLP

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Dated: April 26, 2007

**CERTIFICATE OF SERVICE**

I, Monté T. Squire, hereby certify that on May 3, 2007, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

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I further certify that on May 3, 2007, I caused a copy of the foregoing document to be served by hand delivery on the above-listed counsel of record and on the following in the manner indicated:

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